

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268

In the Matter of:

Freistatt Post Office
Freistatt, MO. 65654

Docket No. A2013-8

Deborah Schoen, Petitioner
(Acting as Representative for
USPS Mail Customers of
The Village of Freistatt, MO.)

BRIEF IN SUPPORT OF APPEAL TO CLOSING OF THE FREISTATT POST OFFICE

Comes now the Petitioner, Deborah Schoen acting as the representative for the U.S.P.S. mail customers of The Village of Freistatt, MO. and files this Brief in Support of the Appeal filed earlier for the purpose of providing additional information and documentation to follow. Petitioner is also a mail customer and receives mail as the city clerk for the Village of Freistatt.

Reasons In General For Reversing Final Determination:

1. The rules and regulations are confusing and tend to contradict one another when an Emergency Closing takes place. CFR Section 241.3 (3) Requirements (i) states "The public must be given 60 days' notice of a proposed action to enable the persons served by a USPS-operated retail facility to evaluate the proposal and provide comments." Yet CFR Section 241.3 (5) (iv) states "Customers formerly served by the suspended facility should receive notice under paragraph (2)(5)(iii) of this section, including by mail, to the same extent that they would have if the facility were not in suspended status at the time of the initial feasibility study, proposal, or final determination." Freistatt's Emergency Suspension notification was posted and sent in letter form to the customers only two days before (March 27, 2013) the actual closing for the suspension took place (March 29, 2013). No time was given to the public for comments. (See "Exhibit A" attached hereto and made a part of this Brief in Support of Appeal.)
2. The Postal Service did not follow the procedure required by law as follows:
 - a. Pursuant to the CFR and the USC, references are made several times to the effect that posting of a final determination must be posted prominently for public viewing.

- i. On the front of the "Final Determination To Close....," the date of posting noted is "06/14/2013" when the actual date the notice was physically posted at Freistatt was "06/17/2013."
 - ii. The final determination was posted on the back side of Freistatt's CBU's with no sign letting the public know the final determination was placed on the back and out of sight from the public. There is no reason for mail customers to look at the back of the CBU's as there is nothing for the customers to access. The final determination was hidden from view and, to this date, there are many customers in Freistatt who still are not aware of the posting. (See "Exhibit B" and "Exhibit C" attached hereto and made a part of the Brief in Support of Appeal.)
 - iii. The USPS failed to post the final notice in an adequate and public place for other frequent customers of the Freistatt Post Office could view it and, therefore, denied these other customers the chance to offer comments. The Freistatt Post Office is located along H Highway (a/k/a Main Street within the corporate limits) which is the corridor for travelers to get from Interstate 44 to the state line. In the past several years, the Freistatt Post Office had gained more and more business from truckers who traveled thru Freistatt and found the Freistatt Post Office to be the most convenient (due to the parking available along H Highway) place to stop and mail in their delivery records. The USPS did not post their Final Determination where these customers could view it and, therefore, these customers were denied a voice in the closing.
 - iv. The feasibility study results (which may also be called the Administrative Record) have not been made available until just recently when the specific request was submitted by the Postal Regulatory Commission for the USPS to produce such records. The final determination filed by the USPS states "Copies of all materials upon which this final determination is based are available for public inspection at the Monett Post Office and Stotts City Post Office during normal office hours." The material contained in the feasibility study is a part of the basis for the USPS final determination to close Freistatt's Post Office. However, when Mary Hopkins, Monett Postmaster, was asked earlier to produce the feasibility study, she stated it was not available at the Monett Post Office for public viewing. Further, when she was asked to produce it, she did not even know what the administrative record was.
3. The Postal Service did not adequately consider certain issues it is required to consider:
 - b. The false statement contained in the Final Determination and located under "II Effect on Community" stating "Freistatt is an unincorporated community" is proof they did not consider Freistatt is, indeed, a Corporate Village (Incorporated 1916).
 - c. Effect on Community

- i. The Freistatt Post Office was first established on August 14, 1884. It has remained an active business in Freistatt throughout until March 29th, 2013. Closing the Freistatt Post Office would mark the end of one of the oldest businesses established in Freistatt. To say that our community is not affected by taking this part of our history away is unconscionable and proves further that the USPS did not fully consider the effect this closing would have on our community.
- ii. Having a Post Office in Freistatt was one of our community's selling points to draw people and business to our town. Closing the Freistatt Post Office will leave us with much less to offer as incentives to potential new residents and/or businesses.
- iii. The Freistatt Post Office was centrally located in the heart of Freistatt and became a very popular place for residents to gather and communicate to one another. For some it was the only place they looked forward to being able to catch up on news and socialize. Since the emergency suspension on March 29th, 2013, there has been a marked decrease in members of the community communicating with each other. The USPS has not considered these negative effects on the people in our community. Nor has the USPS even considered visiting Freistatt to observe how suspension of our Post Office has negatively affected the physical and mental health especially evident in the elderly residents of Freistatt.
- iv. The USPS did not consider the effect on businesses within the community. Freistatt's population in the 2010 US Census was established as 163 people.
 1. Although Freistatt is small in size and population, we take pride in the fact that we have a parochial school. This school conducted business at the Freistatt Post Office on a daily basis.
 2. Volunteers from Trinity Lutheran Church in Freistatt met on a regular basis to put Braille Bibles together and mail same on a regular basis using the Freistatt Post Office facility.
 3. Freistatt also has an insurance business which utilized the post office on a daily business to send out correspondence as well as mailing monthly statements.
 4. The Freistatt Exchange is one of Freistatt's major businesses contributing to the revenue received by the Post Office. The Freistatt Exchange is a five and a half million dollar business annually.
 5. Larson Farm and Lawn is another major business. It is one of five satellite John Deere stores in the Ozarks which brings in an annual income of well over a million dollars. They, too, will be affected by the closing as they conducted business at the Freistatt Post Office on a daily basis mailing and receiving packages as well as mailing monthly statements.

6. The Village of Freistatt sent out monthly billings and received mail on a daily basis. The village also utilized the Post Office for sending timely water samples which must be sent as soon as possible after water is collected.
 - v. Freistatt is a thriving town with great potential. The fact that they qualified for a USDA Loan to build a Senior Housing Facility, another USDA loan for their sewer system (paid in full), another USDA loan for its first water system (also paid in full), and yet another USDA loan for their second well and extension to the water system proves that the USDA has had every confidence in Freistatt's potential growth. The USPS's hasty actions to close the Freistatt Post Office proves they have not considered any accomplishments in the past and has no confidence whatsoever in its future.
 - vi. The USPS also did not consider the effect on the elderly and disabled residents of the Freistatt Housing Authority. Many of these residents do not own vehicles mostly due to disabilities. They heavily relied on the convenience of the Post Office being within walking distance and/or close enough to use wheel chairs to get to the Post Office. Most importantly, these residents relied upon having a Post Office close enough they could receive their medications by mail. With the CBU's now in place, they must wait their turn to receive a key to the limited number of package boxes at the bottom of the pedestals to retrieve their medications.
 - vii. One of Freistatt's senior citizens spent the last eight months of his life toward getting a crosswalk installed across H Highway so the senior citizens would have a safer way to get to our Post Office. As a result of his efforts, the Freistatt Board of Trustees spent Ten Thousand Dollars (\$10,000) of the village's money installing the crosswalk. Shortly after the crosswalk was installed, Chester George (leader of the cause) was recognized by the Board as recipient of the 2009 Community Service Award for realizing a need for his fellow residents and helping to make our community safer. A few days after receiving this award, Chester George passed away, but the crosswalk remains as a reminder of his efforts.
- d. Effect on Employees
- i. Although Freistatt's Postmaster has maintained her employment status with the USPS, she has been relocated to the Reeds Springs Post Office. She presently drives her own personal vehicle to and from work each day which is the sum of driving approximately 75 miles roundtrip and adds an additional hour and forty-five minutes (driving time) to her regular hours she must work at the Post Office. Additionally, the road contains sharp and dangerous curves along with morning and evening fog. The hazardous driving conditions will become especially evident when the winter months set in and weather conditions worsen. This effect on the USPS main full-time

employee was not taken into consideration in the final determination made by the USPS.

4. The facts relied on by the Postal Service have not been established. This is due to the fact the administrative records were not made available to the public until just recently; to wit: after the Final Determination to Close the Freistatt Post Office was posted, after this appeal was filed and after a special request was made by the Postal Regulatory Commission to produce the Administrative Records.
 - e. The facts in the Postal Service's Final Determination may or may not be true. When the feasibility study was being conducted and all data was being collected with regard to daily business transactions, our Freistatt Postmaster stated she was not allowed to count all the transactions. She was not given the reason for this, but did question the outcome of the survey because of this. Petitioner also questions the validity of the feasibility study based upon the Freistatt Postmaster's statements regarding what she was allowed to count in the final tally. If all postings of business transactions had to be recorded as a matter of accounting procedure, the question arises as to how the feasibility study can possibly show true and accurate figures for account balances. (i.e.: Pieces of mail dropped in the collection box after hours were not counted in the total pieces of mail going thru the Freistatt Post office even though Freistatt's Postmaster worked that collected mail; If money orders purchased at the Freistatt facility were a part of the daily transactions, but were not allowed to be counted as a business transaction in the feasibility study, it is difficult to understand how the feasibility report could be compared to the money collected daily and still show true and accurate figures.) For this reason, Petitioner can reasonably state the facts in the Postal Service's Final Determination may not accurately prove what the Postal Service says they prove. Regardless of whether or not the facts accurately prove anything, the USPS has failed to make the feasibility study available to the public for viewing during the time they were required to make it available making accuracy of the facts impossible to determine. Failure of making these documents available to the public in a timely manner also prevented the public from making any comments about the study.
 - f. Another example of inaccuracy stated in the final determination regarding figures can be found comparing (1) "The revenue trend for the office during the last several years" (totals shown by year and found on the first page of the Final Determination) and (2) the statement given in "IV SUMMARY at paragraph #3 of the USPS's Final Determination stating "the mail volume has declined." The fact that revenue has increased over the years indicated strongly contradicts the possibility of mail volume declining unless all daily business transactions were not counted during the feasibility study as stated by the Freistatt Postmaster. A review and audit of the findings

in the feasibility report should be made to determine the accuracy of facts stated.

Other Factors(1) for Postal Regulatory Commission Review and Consideration

The USPS (at Page 1 of their "Final Determination") states "The office is being studied for possible closing or consolidation due to the following reasons: Failed lease negotiations."

Petitioner contends this statement to be false. In support of the claim, the following detailed information is being provided based upon telephone conversations and e-mails exchanged between the owner of the property and this Petitioner during the course of the Emergency Suspension regarding the lease agreement and reflects the property owner's rendition of the events that took place during negotiations of the lease and signing of the lease:

1. Negotiations began December 18th, 2012 with several offers being exchanged.
2. The Lease expired on March 31, 2013.
3. On March 18, 2013, the USPS drafted its own Lease Agreement listing the terms acceptable to the USPS. This Lease Agreement was sent to the owner for consideration of acceptance and signing.
4. After reviewing the Lease Agreement that same day (March 18, 2013), the owner agreed to the terms, signed and dated the Lease Agreement and returned one copy by e-mail the following day (March 19, 2013) and forwarded three signed and dated originals (paper form) by regular U.S. mail to the USPS.
5. On March 22, 2013, the owner received a second and revised Lease Agreement (drafted by the USPS listing the terms acceptable to the USPS). The owner stated he was confused with the sending of the second revised agreement after signing the first one offered, but due to the fact the expiration date was nearing, he signed and dated the second Lease Agreement offered by the USPS and returned it in the same manner as the first Agreement was sent.
6. On March 28, 2013, the owner called the USPS to ask about the two Lease Agreements he executed and returned. The USPS replied with no explanation about the executed lease agreements. Instead, the USPS simply told the owner the local residents of Freistatt were just notified of the Emergency Suspension of the Freistatt Post Office and the Freistatt Post Office would officially close the following day or Friday, March 29, 2013.

Petitioner respectfully requests the Postal Regulatory Commission to contact Nationwide Postal Management for confirmation of the events stated above. The Postal Regulatory Commission has the authority and responsibility to confirm the fact that the USPS completely disregarded the executed Lease Agreements (even though the Lease Agreements were written by the USPS on its own form and under its own USPS terms offered to Nationwide Postal Management. Confirming these facts would also confirm Petitioner's contention that the statement made to the Postal Regulatory Commission (Failed Lease Negotiations) given as the reason for Emergency Suspension and Final Determination to Close is, indeed, false.

Petitioner believes the actions by the USPS mentioned above to be arbitrary, capricious and should be considered an abuse of discretion. Petitioner further believes it to be in the best interest the public for the Postal Regulatory Commission to investigate any and all "failed lease negotiations" claims made by the USPS for all Emergency Suspensions and/or Final Determinations to Close to insure the integrity of all claims made by the USPS. There is a distinct pattern developing that shows the USPS targeting each Post Office as the Lease Expiration Date approaches and claiming Emergency Suspensions and/or Closings are warranted based upon "failed lease agreements." This reason should be verified and confirmed by the Postal Regulatory Commission in order to prevent any more abuse.

Other Factors(2) for Postal Regulatory Commission Review and Consideration

Petitioner claims questionable actions taken by the USPS during and after the Emergency Suspension of the Freistatt Post Office were a direct result of extreme and uncalled for hardships to the mail customers in Freistatt, as follows:

The one and only Notice of Emergency Suspension mailed to Freistatt mail customers and posted on the Freistatt Post Office facility was dated March 27, 2013. Freistatt's Post Office was Emergency Suspended two days later or March 29, 2013 (See Exhibit A).

Prior to the posting, District Manager Rick Belcher met with the Village Board of Trustees to request CBU's be installed on the city property so mail delivery could get started again as soon as possible. Asked about the possibility of door-to-door service, Rick Belcher stated he would not let that happen. According to District Manager Rick Belcher, CBU's were the only alternative and until the city agreed to install them or an alternative location was found to place them, mail would continue to be held at the Monett Post Office for patrons to pick up their mail. Mr. Belcher gave his word that once the board agreed to the CBU's he would work on getting them installed as soon as possible. The District Manager was asked specifically about his obligation and responsibility as a USPS representative and employee to continue delivery service to the Freistatt residents. He responded by informing the Board of Trustees that by his allowing mail for the Freistatt customers to be delivered to the Monett Post Office and held for pickup, he would be fulfilling his duties.

On March 29, 2013, the Freistatt Post Office was closed and everything moved out including the collection box located outside the Post Office. The flag pole installed with a concrete base was cut off at the ground leaving the concrete in place.

March 30th, 2013, was the first day Freistatt mail was held at the Monett Post Office for customers to pick up.

There is a service all USPS postal patrons pay for in the form of a stamp on each piece of first class mail which guarantees the delivery of that piece of correspondence to be delivered to the person to whom it is addressed.

On March 30th, 2013, Freistatt customers stopped receiving that service and all persons who sent mail to Freistatt customers stopped receiving that service as well.

As a result of the USPS's failure to deliver mail to Freistatt customers, the following extreme hardships were felt by the residents and business owners in Freistatt:

- Approximately ninety customers in Freistatt were forced to drive approximately sixteen miles roundtrip to mail correspondence and pick up their own mail every day for a period of seventy-six days (the time it took USPS representatives to get the CBU's installed and activated into service – Date of recovered service was June 13, 2013).
- Many senior residents living at the Freistatt Housing Authority and other locations in Freistatt either do not own vehicles, do not drive or are incapacitated to a point which prevents them from driving. These residents were forced to rely on friends to drive them to Monett to pick up their mail. Many were forced to rely on an OATS bus which comes to town on a weekly basis to provide transportation to and from Monett for picking up their mail.
- Many senior residents receive prescriptions thru the United States mail. For those who had to rely on "other" transportation to pick up their mail, health became a great concern for many who could not pick up their prescriptions before they ran out of their supply at home.
- A former Freistatt Postmaster became so concerned about the seniors not receiving their medications in a timely manner that she went beyond her responsibilities as an employee and, as a citizen on her own time, got permission from the seniors to pick up their mail and deliver it.

Petitioner contends that all of these extreme hardships imposed on the mail customers in Freistatt could have been prevented if mail delivery had not been stopped in Freistatt for a total of seventy-six days.

Petitioner respectfully requests the Postal Regulatory Commission to review the procedures followed during the time the Freistatt businesses and residents were without mail delivery service, investigate as to whether or not the USPS failed to fulfill their responsibilities for the services paid for by all mail customers, require the USPS to identify the person or person(s) responsible for negligence in their duties and hold them accountable so these undue hardships are never experienced by customers in another town.

Petitioner also contends the length of time for the installation was delayed beyond the reasonable time frame for the CBU's to be installed. Petitioner requests the Postal Regulatory Commission to review the length of time (April 11, 2013 or the date of execution of the lease agreement for the CBU installation thru June 13, 2013 or the date the installation was completed and service returned to the customers or a total of sixty-four (64) days) it took for the CBU's to be installed to determine if there was negligence in getting the job completed. If negligence occurred on the part of the USPS in getting the job completed, the Petitioner asks that you require the USPS to hold the person or persons responsible accountable for their lack of actions to get the job completed so this delay in restoring of mail delivery service does not happen in any other town.

Other Factors(3) for Postal Regulatory Commission Review and Consideration

Petitioner contends the District Manager deceived the mail customers in Freistatt and coerced them into choosing a different mail delivery service from what had been established for Freistatt mail customers.

- The District Manager stated in a Freistatt Board of Trustee meeting that unless the Board of Trustees allowed CBU's to be installed, the only alternative for

Freistatt mail customers to receive their mail would be to pick it up in Monett, MO. (8 miles away or 16 miles roundtrip).

- When the District Manager was asked about the possibility of door-to-door service, he refused to allow it.
- When the District Manager was asked about the possibility of getting the same mail service as others living in Freistatt received (mail delivery to boxes at the curb), he stated he would not allow that to happen.
- The District Manager failed to explain to the public in that meeting that the method of mail delivery had already been established in Freistatt with the delivery to individual boxes at the curb.
- The District Manager failed to explain that the Board's allowance of the installation of CBU's would result in an irreversible choice of a changing the method of mail delivery service in Freistatt.

The deliberate actions taken by the District Manager in refusing to explain CBU installation and delivery service would change the type of mail delivery service already established in Freistatt was deceitful and irresponsible. As a result of the District Manager leaving the people of Freistatt with no alternative to receive their mail (other than driving the 16 miles roundtrip to Monett and back to pick it up), the Board of Trustees was coerced into making an uninformed decision to allow the installation of CBU's on city property and permanently change the mail delivery service in Freistatt.

Other Factors(4) for Postal Regulatory Commission Review and Consideration

Petitioner contends discrimination may play a large part in the decision to install CBU's in Freistatt. This was the only option made available to us. However, alternative choices of mail delivery should be equal and fair to all, to wit:

- Monett, for only one example of towns, has offered for many years door-to-door delivery service to city residents.
- Freistatt is an incorporated village with corporate limits where door-to-door mail delivery service used to be offered and should still be offered on an equal basis (in comparison to other towns presently receiving this service).
- A rural carrier presently delivers (and has been delivering for many years) mail to several residents living within the corporate limits of Freistatt by means of a box placed along the street and located in close vicinity of the residents' homes. When we inquired about this alternative mail delivery, we were told the USPS would not allow that type of service in Freistatt. This mail delivery service continues to be offered to these several residents. By the USPS refusing to offer this type of service to the remainder of residents in Freistatt suggests "discrimination" is being practiced by the USPS in Freistatt, MO.
- Although we have not taken the time to explore the methods of delivery in other area towns, we strongly believe there were other choices that should have been made available to Freistatt that would have made the USPS appear to be acting more fair and equal to all.

Summary

For the reasons given in Appeal filed earlier and the details offered in this Brief in Support of the Appeal to Close the Freistatt Post Office, we respectfully request the Postal Regulatory Commission mandate the Final Determination to Close the Freistatt Post Office be reversed and returned to the Postal Service for further consideration.

Further, we request the Commission to suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal.

Respectfully Submitted
August 19, 2013

Deborah Schoen

Deborah Schoen, Petitioner
(Acting as Representative for
USPS Mail Customers of
The Village of Freistatt, MO.)

POST OFFICE OPERATIONS



March 27, 2013

Dear Valued Postal Customer:

Effective Friday, March 29, 2013, Postal Services at the Freistatt, MO Post Office, 65654, will be discontinued at the close of business.

On March 30, 2013, postal customers of the Freistatt Post Office will be directed to the Monett Post Office located at 300 4th Street, Monett, MO, 65708, for all postal services and general mail delivery. Customers who have a Post Office Box at Freistatt will receive general mail delivery at the Monett Post Office. Post Office Box fees will be refunded accordingly, however, Freistatt customers may establish a PO Box at the Monett Post Office.

Freistatt, MO residents will maintain their current ZIP Code.

The Monett Post Office Retail Hours, excluding holidays, are 8:30 a.m. to 4:30 p.m. Monday through Friday and 8:30 a.m. to 11:30 a.m. on Saturday. PO Boxes are accessible 24 hours a day.

The Postal Service has several methods of establishing postal services in areas where our services have been discontinued. We will explore alternatives that may allow us to establish a postal presence in Freistatt, as well as provide general delivery into the Freistatt community. Village Post Offices and Collection Box Units are some of the options we are looking into.

Village Post Offices are operated by community businesses to provide selected postal products and services, including Forever Stamps and Priority Mail Flat Rate packages and envelopes. These Approved Postal Providers also provide expanded access to PO Box customers at or near the business location.

We realize with change there can be concern. We value your business and sincerely apologize for any inconvenience this sudden move may cause.

Should you have questions or need additional information, please do not hesitate to contact Darrin R. Gadson, Manager, Consumer and Industry Contact, at (816) 374-9186.

Sincerely,

A handwritten signature in dark ink, appearing to read "Rick Belcher".

Rick Belcher
Manager, Post Office Operations
Mid-America District

101 NORTH MAIN STREET
JOPLIN, MO 64801-9998
(417) 623-5613 EXT 18
FAX: (417) 650-578-3382

VISIT US @ WWW.USPS.COM

Exhibit A



Exhibit B



Exhibit C